IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1189 of 1982

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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ORIENTAL FIRE & GENERAL INS. CO. - Appellant(s)
Versus
BAKSIS SINGH HARDIT SINGH SIKH & 1 - Defendant(s)

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Appearance :
Though served none appeared for Appellant(s) : 1,
NOTICE UNSERVED for Defendant(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 03/08/2006

ORAL JUDGMENT

1. By way of the appeal the appellant Insurance Company has challenged the judgement and decree dated 06.11.1981 passed by the Commissioner of Workmen's Compensation and Civil Judge (Senior Division), Surendranagar in Workmen's Compensation Case No. 15 of 1980, whereby the Commissioner ordered original opponents to pay Rs. 27,216/- with interest at 6% percent to the original applicant.

2. The short facts of the case are that the original

applicant was a driver employed on driving truck bearing Registration No. M.E.W. 5466. On 02.05.1977 he was driving this truck from Rajkot to Banglore towards Surendrangar side. Then there was a collusion between the other truck coming from opposite direction. As a result of this accident he was severely injured and his both legs fractured. He was admitted in a Civil Hospital at Rajkot and then transferred to Irwin Group of Hospitals at Jamnagar.

3. Learned advocate for the appellant has submitted that learned judge has misread and misconstrued the decision reported in ***Hindustan Aeronautics Ltd. Vs. Bonejan and Another reported in 1971 ACJ 266.*** He further submitted that learned judge has failed to appreciate that under Workmen's Compensation Act there was no provision for payment of any interest and costs and therefore, to that extent at least, the award is erroneous and bad in law.

4. Though served none appears for the respondents. I have gone through the award of the Trial Court and it appears that the accident took place on 02.05.1977 and the notice Ex. 33 was issued on 02.06.1979. It is a fact that the original applicant had serious injury and was hospitalised for a long period. However, no question of failure to give notice to original opponent No. 1. In

respect to notice to Insurance Co. Section 10 of the Workmen's Compensation Act provides for giving of notice before the filing of the petition for compensation. There fore the contention raised herein cannot be accepted.

5. In view of the above finding I am of the view that the Trial Court has not committed any error in passing the impugned order. I am in complete agreement with the reasonings adopted and the findings arrived at by the trial court. Hence the appeal is dismissed. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*